

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

WAGO VERWALTUNGSGESELLSCHAFT
MBH,

Plaintiff,

v.

ROCKWELL AUTOMATION, INC.,

Defendant.

Case No. 1:11CV756

JUDGE CHRISTOPHER A. BOYKO

MAG. JUDGE NANCY A. VECCHIARELLI

Jury Demand

WVG’S ANSWER AND AFFIRMATIVE DEFENSES TO COUNTERCLAIMS

Plaintiff WAGO Verwaltungsgesellschaft mbH (hereinafter “**WVG**”) generally denies all of the averments Defendant’s Counterclaims, which begin at page 12 of Defendant’s Answer, Affirmative Defenses, and Counterclaims to Plaintiff’s Amended Complaint (Docket Entry No. 29 in the record of this proceeding, hereinafter cited in the form “**Dkt. 29**”), except to the extent designated averments or paragraphs are expressly admitted herein. WVG incorporates by reference its Amended Complaint (Dkt. 12) as if fully restated herein.

Defendant’s Allegations Regarding the Parties

1. On information and belief, WVG admits the allegations of Paragraph 1 of Defendant’s Counterclaims.

2. WVG admits the allegations of Paragraph 2 of Defendant’s Counterclaims.

Defendant’s Allegations Regarding the Nature of the Counterclaims and Jurisdiction

3. Paragraph 3 of Defendant’s Counterclaims consists of legal averments to which WVG is not required to make a response.

4. Paragraph 4 of Defendant’s Counterclaims consists of legal averments to which WVG is not required to make a response.

Count I of Defendant's Counterclaims: Non-Infringement

5. Paragraphs 1-4 of WVG's Answer and Affirmative Defenses to Counterclaims are incorporated by reference as if fully restated herein.

6. WVG denies Paragraph 6 of Defendant's Counterclaims.

7. Paragraph 7 of Defendant's Counterclaims consists of legal averments to which WVG is not required to make a response.

Count II of Defendant's Counterclaims: Invalidity

8. Paragraphs 1-4 of WVG's Answer and Affirmative Defenses to Counterclaims are incorporated by reference as if fully restated herein.

9. WVG denies Paragraph 9 of Defendant's Counterclaims.

10. Paragraph 10 of Defendant's Counterclaims consists of legal averments to which WVG is not required to make a response.

GENERAL DENIAL

11. Except to the extent designated averments or paragraphs of Defendant's Counterclaims are expressly admitted in this Answer and Affirmative Defenses to Counterclaims, WVG generally denies all of the averments of Defendant's Counterclaims, including, but not limited to, Defendant's prayer for relief and any other averment that Defendant is entitled to relief from this Court.

AFFIRMATIVE DEFENSES TO DEFENDANT'S COUNTERCLAIMS

Count I Fails to State a Counterclaim upon Which Relief Can Be Granted

12. Count I of Defendant's Counterclaims, *see* Paragraphs 5-7, above, restates the statutory affirmative defense asserted in paragraph 65 of Defendant's Answer (Dkt. 29 at 12) but

fails to satisfy the pleading standards applicable to counterclaims; as such, Count I of Defendant's Counterclaims fails to state a counterclaim upon which relief can be granted.

Count II Fails to State a Counterclaim upon Which Relief Can Be Granted

13. Count II of Defendant's Counterclaims, *see* Paragraphs 8-10, above, restates the statutory affirmative defense asserted in paragraph 66 of Defendant's Answer (Dkt. 29 at 12) but fails to satisfy the pleading standards applicable to counterclaims; as such, Count II of Defendant's Counterclaims fails to state a counterclaim upon which relief can be granted.

JURY DEMAND

Trial by jury is respectfully demanded on all issues triable to a jury in this matter.

Date: May 12, 2011

Respectfully submitted,

/s/ Robert N. Cook

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WAGO VERWALTUNGSGESELLSCHAFT MBH

CERTIFICATE OF SERVICE

I certify that, on May 12, 2011, I caused the foregoing WVG'S ANSWER AND AFFIRMATIVE DEFENSES TO COUNTERCLAIMS to be electronically filed with the Clerk of Court using the Court's Case Management/Electronic Case Filing ("CM/ECF") System. All parties are represented by attorneys of record registered with CM/ECF and will receive service electronically. There is no party requiring a different form of service.

/s/ Robert N. Cook

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